

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

**STATE OF OKLAHOMA, ex rel. W.A. DREW
EDMONDSON, in his capacity as ATTORNEY
GENERAL OF THE STATE OF OKLAHOMA
AND OKLAHOMA SECRETARY OF THE
ENVIRONMENT C. MILES TOLBERT, in his
capacity as the TRUSTEE FOR NATURAL
RESOURCES FOR THE STATE OF
OKLAHOMA**

PLAINTIFFS

v.

CASE NO.: 05-CV-00329 GKF –SAJ

**TYSON FOODS, INC., TYSON POULTRY, INC.,
TYSON CHICKEN, INC., COBB-VANTRESS,
INC., CAL-MAINE FOODS, INC., CAL-MAINE
FARMS, INC. CARGILL, INC., CARGILL
TURKEY PRODUCTION, LLC, GEORGE’S,
INC., GEORGE’S FARMS, INC., PETERSON
FARMS, INC., SIMMONS FOODS, INC. and
WILLOW BROOK FOODS, INC.**

DEFENDANTS

**UNCONTESTED MOTION FOR LEAVE TO CONSOLIDATE DEFENDANTS’
BRIEFS IN RESPONSE TO THE MOTION FOR PRELIMINARY INJUNCTION**

Defendants Tyson Foods, Inc., Tyson Poultry Inc., Tyson Chicken, Inc. Cobb-Vantress, Inc., Cal-Maine Farms, Inc., George’s Inc., George’s Farms, Inc., Peterson Farms, Inc., Simmons Foods, Inc., Cargill, Inc., Cargill Turkey Production, LLC, and Willow Brook Foods, Inc. (“Defendants”) respectfully file this uncontested motion for leave to consolidate Defendants’ responses to the “State of Oklahoma’s Motion for Preliminary Injunction” (“Motion”) to the greatest extent possible.

Defendants’ written responses to Plaintiff’s Motion are due February 8, 2007. The Court has cautioned that, given its heavy docket, the parties in this case should proceed as efficiently as possible. With that goal in mind, Defendants are attempting to coordinate and consolidate their briefs in response to Plaintiff’s Motion to the greatest

extent possible. Under Local Rule 7.2(c), each Defendant should file a response brief and each of those briefs would be limited to 25 pages. *See* LCvR7.2(c). However, Defendants do not believe that filing thirteen separate briefs totaling 325 pages would be useful or efficient. Additionally, filing thirteen separate briefs would make it difficult to adequately discuss the issues, since each brief would need to develop the same introductory material before getting to the substance of an argument. This repetition would hinder full discussion of the relevant facts and authorities within the 25 page limit for each brief.

Accordingly, Defendants seek leave to consolidate their briefs (and the accompanying page limitations) to the greatest extent possible. With the depositions still ongoing the briefs are still being written. At this point it is unclear whether Defendants will be able to place all issues in a common brief or whether the Defendants will need to file a small handful of briefs. But it is clear that continued efforts at consolidation will greatly reduce the number of briefs and the total number of pages. If consolidated, the total number pages of all briefs filed by Defendants will in no event exceed the total number of pages to which Defendants otherwise would have been entitled (and will likely result in far fewer pages).

Counsel for Plaintiff have advised that they do not object to this motion, so long as Plaintiff is permitted to file a reply brief that will be no longer than 40% of the total pages in Defendants' briefs. For example, if Defendants file 100 total pages of briefing, Plaintiff's reply would be limited to 40 pages. Defendants agree that this is a reasonable approach.

For the reasons explained above, Defendants respectfully seek leave to file one or more consolidated briefs in response to Plaintiff's Motion. Each brief may exceed the 25 page limit, but in no event may the total number of pages exceed the total page limit to which Defendants would otherwise have been entitled.

Respectfully submitted,

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**STATE OF OKLAHOMA, ex rel. W.A. DREW
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INC., GEORGE’S FARMS, INC., PETERSON
FARMS, INC., SIMMONS FOODS, INC. and
WILLOW BROOK FOODS, INC.**

DEFENDANTS

[PROPOSED] ORDER

The Court hereby GRANTS Defendants’ “Motion For Leave To Consolidate Defendants’ Briefs In Response To The Motion For Preliminary Injunction.” Defendants may file one or more consolidated briefs in response to the Plaintiff’s Motion for a Preliminary Injunction. Each brief may exceed the 25 page limit, but in no event may the total number of pages or briefs exceed the total page limit to which Defendants would otherwise have been entitled. Defendants are instructed to keep the briefing as short as reasonably possible.

The number of pages in Plaintiff’s reply brief may not exceed 40% of the total number of pages filed in Defendants’ responses.

Dated: February __, 2008

Judge Gregory K. Frizzell
Northern District of Oklahoma

CERTIFICATE OF SERVICE

I certify that on the 4th day of February 2008, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

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